

REMARKS/ARGUMENTS

It is hereby requested that the previously filed Amendment after Final dated July 19, 2007 not be entered.

Applicants thank the Examiner for his consideration of the application. Claims 1-4, 6, 9-12, 14-17, 20-22, 26 and 29-30 remain pending in the application. Claims 1, 17 and 29 are amended herein and claim 13 is cancelled herein without prejudice or disclaimer. Claims 7-8, 18-19, 23-25, 27-28 and 31-32 were previously withdrawn. However, if the Examiner finds that independent claims 1 and 29 are patentable over the prior art, Applicants request that the withdrawn claims be rejoined in this application, since generic claims 1 and 29 would be held allowable and the withdrawn claims all depend from claims 1 and 29, either directly or indirectly.

35 U.S.C. § 102 Rejections

The Examiner rejected claims 1-4, 5, 9-10, 12, 14, 16, 20 and 29-30 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,066,088 issued to Davis ("Davis"). Independent claim 1 is directed to a valve for an implantable fluid delivery system and independent claim 29 is directed to a fluid switch for an implantable fluid delivery system. Both systems include, among other things, an internal magnet having a north and south pole forming a magnetic momentum vector axis, wherein one pole of the internal magnet includes one or more grooves for permitting fluid flow through a fluid chamber when the one pole is located over the fluid inlet and the fluid outlet. Davis does not disclose or suggest an internal magnet that includes one or more grooves. Thus, claims 1 and 29, and the claims dependent therefrom, are patentable over the cited prior art for at least the reason cited above.

35 U.S.C. § 103 Rejections

The Examiner rejected claims 11 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Davis. The Examiner rejected claims 13 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Davis in view of U.S. Patent No. 6,966,325 issued to Erickson ("Erickson"). The Examiner states that Erickson discloses a moveable internal magnetic member with grooves to allow for fluid movement across the magnetic member. However, Erickson does not disclose, teach or suggest that the one or more grooves are located on one pole of an internal magnet or that the one or more grooves permit fluid flow through the fluid chamber when the one pole is located over the fluid inlet *and* the fluid outlet. Thus, claims 1 and 29, and the claims dependent therefrom, are patentable over the cited prior art, either alone or in combination for at least the reasons cited above.

CONCLUSION

Applicants appreciate the Examiner considering the Supplemental Information Disclosure Statement (IDS) filed on May 17, 2006 (and included again with the response filed on November 7, 2006). However, Applicants again respectfully request that the Examiner consider the IDS filed on February 28, 2006, which included references AA-BB. The IDS was received by the U.S. Patent and Trademark Office as shown in the electronic file wrapper in the Patent Application Information Retrieval (PAIR) section of its website and entered into PAIR on March 3, 2006. A copy of the IDS with the Examiner's initials next to the references cited is requested to show evidence that the Examiner has considered the IDS.

Enclosed is a Request for Continued Examination. Please charge Deposit Account No. 19-4972 the required fee of \$790.00. Applicants believe that no additional fees or an extension

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of time is required. If any additional fees are required for the timely consideration of this application, please charge deposit account number 19-4972. All the claim rejections have been addressed and all of the pending claims are allowable for the reasons stated and others. Reconsideration of the application and issuance of a notice of allowance are respectfully requested.

Respectfully submitted,

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